

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

THE PEOPLE OF THE STATE OF NEW YORK Ex
Rel. Philip Desgranges, Esq., on behalf of JOHN
PACE, EARL COLEMAN, TONI DILAURO,
JOSHUA WHIDBEE, AND ALL OTHERS
SIMILARLY SITUATED,

Petitioners,

v.

MICHAEL SCHIFF, Sullivan County Sheriff; and
ANTHONY ANNUCCI, Acting Commissioner, New
York State Department of Corrections and Community
Supervision,

Respondents.

Index No. _____

**VERIFIED CLASS PETITION
FOR WRIT OF HABEAS CORPUS**

Philip Desgranges, an attorney duly admitted to practice law in the State of New York,
hereby affirms the following under penalty of perjury:

PRELIMINARY STATEMENT

1. In the midst of a pandemic that has taken the lives of nearly 30,000 New Yorkers, dozens of people who face a high risk of serious illness or death from COVID-19 are trapped in the Sullivan County Jail where nearly half the jail population is infected with the virus. Both those suffering from the virus and those who have not yet contracted it are condemned to a jail so deplorable that state officials call it a “dungeon.” The Sullivan County Jail is filled with black mold, the ceilings leak toilet water into people’s cells, and the housing units are unbearably hot because of poor ventilation. These conditions make the jail “unsafe” in normal times, according to county officials. But during a deadly pandemic that jail officials have permitted to flourish and from which they have failed to protect the most vulnerable in their

custody, these conditions make the Sullivan County Jail a deathtrap.

2. Indeed, the jail is so immitigably dangerous for those most vulnerable to the coronavirus — people of advanced age or with certain underlying medical conditions — that Dr. Homer Venters, one of the Nation’s leading experts on correctional health, believes they “face a serious risk of life-threatening medical complications or death from COVID-19 for as long as they remain detained at Sullivan County Jail.”

3. For several months, New York State has been the epicenter of the COVID-19 pandemic in the United States, and has had the most cases and deaths. As COVID-19 has ravaged our State, the risks to people confined in its jails and prisons — in terms of transmission, exposure, and harm — has been alarming.

4. For reasons beyond their control, people in jail cannot practice social distancing, control their exposure to large groups, practice increased hygiene, wear protective clothing, avoid high-touch surfaces, or sanitize their own environment; and they are more vulnerable and susceptible to the complications of the coronavirus because they are more likely to have chronic underlying health conditions that place them at heightened risk for serious illness or death from COVID-19.

5. People have limited opportunities to access medical care under normal circumstances in jails; medical facilities are limited, and as staff become sick, fewer people are present to care for those who remain confined. The outbreak of a highly infectious, deadly virus in a closed detention setting is a disaster, calling for urgent and decisive action to protect the health of those confined in the jail, those who work there, and the medical professionals who will treat those who become infected.

6. Government officials across the country have taken decisive action to reduce their incarcerated populations to stem the spread of infection at jails, prisons, and detention centers. But unfortunately, the Sullivan County Sheriff's Office, which current detains 73 people, has failed to respond to the urgent and serious threat to the health of people confined at the Sullivan County Jail. Although many medically vulnerable people are confined at the jail, Sullivan County officials have created an environment where COVID-19 flourishes virtually unabated. At the time of filing, 45% of the jail's population had tested positive for COVID-19.

7. The Sullivan County Jail has consistently exposed detained individuals to unsafe and unsanitary conditions, even under normal circumstances. It does not meet the State's minimum standards of management of correctional facilities. In 2013, the State Comptroller issued a report stating that the jail was living on "borrowed time" from being condemned because of its deplorable conditions. And as evidenced by the woefully inadequate measures that Sheriff Schiff has implemented in the several months since the COVID-19 crisis reached New York, the Sullivan County Jail is grossly ill-equipped to protect and care for medically vulnerable people during the COVID-19 pandemic.

8. Petitioners John Pace, Earl Coleman, Toni Dilauro, and Joshua Whidbee are four individuals detained at the Sullivan County Jail. All face an imminent risk of serious illness or death from COVID-19. And that risk is particularly acute as to Petitioners Dilauro and Whidbee, who have already been infected by COVID-19 and whose conditions could drastically deteriorate at any moment. Petitioners bring this habeas proceeding on behalf of themselves and all medically vulnerable people detained at the Sullivan County Jail challenging the respondents' deliberate indifference to their serious medical needs and seeking their immediate release to avoid serious harm to their health.

PARTIES

9. Petitioner John Pace is in pretrial detention at the Sullivan County Jail for a burglary charge. He is 61 years old and diagnosed with chronic obstructive pulmonary disease (“COPD”), a progressive lung disease, and a heart condition caused by bundle blockage. Mr. Pace’s advanced age, COPD, and heart condition place him at an elevated risk of serious illness or death from COVID-19. Mr. Pace has not yet tested positive for COVID-19.

10. Petitioner Earl Coleman is detained at the Sullivan County jail on a parole warrant for alleged parole violations, a technical violation and a violation based on a charge of possession of a controlled substance. He was released on his own recognizance on the possession charge. He is 61 years old, and his advanced age places him at an elevated risk for serious illness or death from COVID-19. Mr. Coleman has not yet tested positive or COVID-19.

11. Petitioner Toni Dilauro is serving a sentence at the Sullivan County Jail until August 24, 2020 based on a conviction for a technical parole violation. She has severe asthma, which places her at an elevated risk of serious illness or death from COVID-19. Ms. Dilauro tested positive for COVID-19 on or around May 16, 2020.

12. Petitioner Joshua Whidbee is detained at the Sullivan County Jail on a parole warrant for alleged technical parole violations. He is diagnosed with hypertension, which places him at an elevated risk for serious illness or death from COVID-19. Mr. Whidbee tested positive for COVID-19 on or around May 16, 2020.

13. Respondent Michael Schiff is the Sullivan County Sheriff. Respondent Schiff is a legal custodian of petitioners and the putative class members.

14. Respondent Anthony Annucci is the Acting Commissioner of the New York State Department of Corrections and Community Supervision. Respondent Annucci is the legal

custodian of petitioners and the putative class members who are detained pursuant to a parole warrant or conviction.

STATEMENT OF FACTS

The COVID-19 Crisis in New York

15. SARS-CoV-2 is the novel coronavirus that causes COVID-19.¹ It is a dangerous disease caused by a highly contagious novel coronavirus that attacks and infiltrates healthy cells in infected individuals, replicates, and spreads throughout the body in a matter of days.

16. COVID-19 is extremely infectious. The virus is spread through droplet transmission; that is, when an infected individual speaks, coughs, or sneezes, they expel droplets which can transmit the virus to others in their proximity. It is most commonly transferred as a result of close personal contact and through inhaling respiratory droplets, but can also be transferred by touching contaminated surfaces. A recent study showed that COVID-19 can survive in the air for up to three hours, and on hard surfaces like doorknobs and faucets for up to three days.²

17. There is no vaccine for COVID-19 and no known cure. No one is immune. The only methods known to prevent the spread of COVID-19 are “social distancing” (remaining physically separate from others by at least six feet) and improved hygiene, including frequent handwashing.

¹ *Naming the Coronavirus Disease (COVID-19) and the Virus that Causes It*, WORLD HEALTH ORGANIZATION, available at [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it)

² *New Coronavirus Stable for Hours on Surfaces*, NATIONAL INSTITUTE OF HEALTH (March 17, 2020), <https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hourssurfaces>

18. COVID-19 has caused a once-in-a-century global pandemic. COVID-19 is different than all previous infectious disease outbreaks faced in our lifetime because of the speed and extent of its spread worldwide, and how quickly it has overwhelmed healthcare systems. As of May 27, 2020, COVID-19 reportedly had infected more than 5.8 million people worldwide, killing over 360,000, including 100,000 Americans. Those numbers, though shocking, likely underestimate the virus's actual toll on human life.

19. New York State has felt the impact of COVID-19 to an especially crushing extent, and has been the epicenter of infection and death in the United States. As of May 27, 2020, 365,000 COVID-19 cases have been reported in New York, resulting in nearly 30,000 deaths. This represents the highest coronavirus-related death rate in the country. New York — a single state — accounts for nearly a tenth of the reported COVID-19 deaths *in the world*.

20. Adding to COVID-19's transmissibility is the fact that so many people do not know they are infected. Experts believe that symptoms can take up to two weeks to manifest³; And research shows that up to 80% of infected individuals, though still highly contagious, exhibit at most mild symptoms.⁴

21. But while some people infected by COVID-19 are asymptomatic or experience mild symptoms, for others, COVID-19 causes severe, life-threatening medical complications.

22. COVID-19 can damage lung tissue, sometimes leading to a permanent loss in respiratory capacity, and can damage the heart, liver, and other vital organs. Patients with severe

³ *Coronavirus*, Cleveland Clinic, available at https://my.clevelandclinic.org/health/diseases/21214-coronavirus?_ga=2.133581070.1000071057.1590532592-718973220.1589413914#symptoms-and-causes

⁴ *See id.*

cases of COVID-19 require advanced medical support, including positive pressure ventilation and extracorporeal mechanical oxygenation in intensive care.⁵ Many die.

23. COVID-19 may target the heart muscle, causing a medical condition known as myocarditis, or inflammation of the heart muscle.⁶ Myocarditis can affect the heart muscle and electrical system, reducing the heart's ability to pump. This reduction can lead to rapid or abnormal heart rhythms in the short term, and long-term heart failure that limits exercise tolerance and ability to work.

24. Emerging evidence also suggests that COVID-19 can trigger an over-response of the immune system, further damaging tissues in a cytokine release syndrome that can result in widespread damage to other organs, including permanent injury to the kidneys and neurologic injury.⁷

25. These complications can manifest at an alarming pace. Patients can show the first symptoms of infection in as little as two days after exposure, and their conditions can seriously deteriorate in as little as five days or sooner.⁸ Because COVID-19 can damage heart, kidney and lung function and cause blood clots throughout the body, there is also risk of serious complications in the days and weeks of recovery.

26. Patients who do not die from serious cases of COVID-19 may nonetheless face prolonged recovery periods, including extensive rehabilitation from neurological damage and loss of respiratory capacity.

⁵ Expert Declaration of Dr. Jonathan Golob: <https://www.aclu.org/legal-document/dawson-v-asher-expert-declaration-dr-jonathan-golob>.

⁶ Expert Declaration of Dr. Carlos Franco-Paredes: <https://creeclaw.org/wp-content/uploads/2020/03/Declaration-of-Dr.-Carlos-Franco-Paredes.pdf>.

⁷ *Id.*

⁸ *Id.*

27. The need for care, including intensive care, and the likelihood of death, are much higher from COVID-19 infection than from influenza. According to recent estimates, the fatality rate of people infected with COVID-19 is about ten times higher than a severe seasonal influenza, even in advanced countries with highly effective health care systems. For people in the highest risk populations, the fatality rate of COVID-19 is about 15 percent.⁹

28. Older adults and those with certain medical conditions face greater chances of serious illness or death from COVID-19, and can experience symptoms such as fever, coughing, and shortness of breath to an especially severe degree.¹⁰

29. COVID-19 poses an elevated risk of causing serious harm or death to people over the age of 50 years old.¹¹

30. People of any age with certain underlying medical conditions also are at an elevated risk from COVID-19. These high-risk conditions include lung disease, heart disease, chronic liver or kidney disease (including hepatitis and dialysis patients), diabetes, epilepsy, hypertension, compromised immune systems (such as from cancer, HIV, or autoimmune disease), blood disorders (including sickle cell disease), inherited metabolic disorders, stroke, developmental delay, asthma, and pregnancy.¹² The WHO-China Joint Mission Report provides that the mortality rate for those

⁹ *Id.*

¹⁰ N.Y. STATE DEP'T OF HEALTH, Memorandum to the Dep't of Health Housing Providers (Mar. 27, 2020), https://health.ny.gov/health_care/medicaid/covid19/docs/2020-03-27_supp_house_guide.pdf; *Coronavirus Disease 2019: People Who are at Higher Risk*, CTRS. FOR DISEASE CONTROL & PREVENTION (last reviewed May 14, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>.

¹¹ N.Y. STATE DEP'T OF HEALTH, Memorandum to the Dep't of Health Housing Providers (Mar. 27, 2020), https://health.ny.gov/health_care/medicaid/covid19/docs/2020-03-27_supp_house_guide.pdf

¹² *See id.*; *Coronavirus Disease 2019: People Who are at Higher Risk*, CTRS. FOR DISEASE CONTROL & PREVENTION (last reviewed May 14, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>.; The Centers for Disease Control and

with cardiovascular disease was 13.2%, 9.2% for diabetes, 8.4% for hypertension, 8.0% for chronic respiratory disease, and 7.6% for cancer.¹³

31. Most people in higher risk categories who develop serious illness from COVID-19 will need advanced supportive care requiring highly specialized equipment that is in limited supply in New York, and an entire team of care providers, including 1:1 or 1:2 nurse-to-patient ratios, respiratory therapists, and intensive care physicians. This level of support can quickly exceed local health care resources. Patients in high-risk categories should expect a prolonged recovery, including the need for extensive rehabilitation.

32. There is no known medication to treat COVID-19 effectively. The only known methods to effectively reduce the risk for vulnerable people of serious illness or death from COVID-19 are to prevent infection in the first place through social (physical) distancing and improved hygiene.

COVID-19 Poses a High Risk for Those in Correctional Settings

Prevention and New York State Department of Health both have acknowledged that pregnant people are particularly vulnerable to viral respiratory infections. *See Coronavirus Disease 2019 (COVID-19): If You Are Pregnant, Breastfeeding, or Caring for Young Children*, CTRS. FOR DISEASE CONTROL & PREVENTION (last reviewed May 13, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/pregnancy-breastfeeding.html>; *Pregnancy and COVID-19 for Health Care Providers*, N.Y. STATE DEP'T OF HEALTH (Mar. 21, 2020), <https://oasas.ny.gov/system/files/documents/2020/03/covid-19-pregnancy-guidance-for-providers-3.21.20.pdf>.

¹³ *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*, World Health Organization (Feb. 28, 2020), at 12, <https://www.who.int/docs/default-source/coronaviruse/who-china-joint-mission-on-covid-19-final-report.pdf> (finding fatality rates for patients with COVID-19 and co-morbid conditions to be: “13.2% for those with cardiovascular disease, 9.2% for diabetes, 8.4% for hypertension, 8.0% for chronic respiratory disease, and 7.6% for cancer”).

33. Correctional settings are especially susceptible to the rapid outbreak of infectious diseases.¹⁴ This has proven true with respect to an array of communicable diseases — including swine flu, avian flu, and tuberculosis, among others — and is true with respect to COVID-19 as well.

34. Jails and other correctional facilities house large groups of people together, and move people in groups to eat, participate in recreation, and go to court. Jails frequently have insufficient medical care for the population, and, in times of crisis, may also face absenteeism. Hot water, soap, and paper towels are often in limited supply. Incarcerated people, rather than professional cleaners, are responsible for cleaning the facilities and often are given inadequate cleaning supplies. This means that more people who are susceptible to infection are congregated together in a setting where fighting the spread of infection is nearly impossible.

35. Like other people in congregate facilities, people confined in jails, prisons, and detention centers will find it virtually impossible to observe the social distancing and hygiene measures required to mitigate the risk of transmission, even with the best-laid plans.

36. Experts believe that people already at a heightened risk from COVID-19 infection are at a particularly “grave risk” when confined to institutional settings.¹⁵

37. Because risk mitigation — the only viable public health strategy to prevent infection — is virtually impossible in correctional settings, an array of correctional public health experts have recommended the release from custody of people most vulnerable to COVID-19.¹⁶

¹⁴ Venters Aff. ¶¶ 11–12; Expert Declaration of Dr. Jaimie Meyer, *Velasaca*, 1:20-cv-1803 (Dkt. No. 42) (S.D.N.Y.)

¹⁵ Decl. of Jonathan Louis Golob, *Dawson v Asher*, 2:20-cv-409-JLR-MAT (Dkt. 5)

¹⁶ See Decl. of Robert B Greifinger M.D., *Dawson v. Asher*, 2:20-cv-409-JLR-MAT (Dkt. 4) (“The only viable public health strategy available is risk mitigation. Even with the best-laid plans to address the spread of COVID-19 in detention facilities, the release of high-risk individuals is a

38. On March 15, 2020, Dr. Marc Stern, a correctional health expert and former Assistant Secretary for Health Care at the Washington State Department of Corrections, recommended the release of all eligible individuals from detention, with priority given to elderly people and those with underlying medical conditions most vulnerable to COVID-19.¹⁷ In so recommending, Dr. Stern described release from detention for those at a high risk for serious illness or death from COVID-19 as “a critically important way to meaningfully mitigate that risk.”¹⁸

39. In New York City, public officials, the jail oversight board, and even doctors working at Rikers Island have acknowledged that the City’s jails are simply unsafe and releasing people is the only humane option.¹⁹ On March 20, 2020, Dr. Robert Cohen, a member of New York City’s Board of Correction, said, “The most important thing we can do right now is discharge all of the people who are old and have serious medical issues — those people are likely to die from a coronavirus infection.”²⁰ Around the same time, New York City announced the release from Rikers

key part of a risk mitigation strategy. In my opinion, the public health recommendation is to release high-risk people from detention, given the heightened risks to their health and safety, especially given the lack of a viable vaccine for prevention or effective treatment at this stage.”)

¹⁷ Stern Decl. *Dawson v. Asher*, 2:20-cv-409-JLR-MAT (Dkt. 6)

¹⁸ *Id.*

¹⁹ *New York City Board of Correction Calls for the City to Begin Releasing People from Jail as Part of Public Health Response to COVID-19* (Mar. 17, 2020), <https://www1.nyc.gov/assets/boc/downloads/pdf/News/2020.03.17%20-%20Board%20of%20Correction%20Statement%20re%20Release.pdf>; see also Ross MacDonald (@RossMacDonaldMD), Twitter (March 18, 9:51 p.m.) <https://twitter.com/RossMacDonaldMD/status/1240455796946800641> (Dr. MacDonald is the Chief Medical Officer for Correctional Health Services (“CHS”), which provides healthcare to New York City’s Department of Corrections);

²⁰ Jen Ransom and Alan Feuer, ‘*A Storm Is Coming*’: Fears of an Inmate Epidemic as the Virus Spreads in the Jails, *N.Y. Times* (March 20, 2020), <https://www.nytimes.com/2020/03/20/nyregion/nyc-coronavirus-rikers-island.html>.

Island of 300 people convicted of non-violent offenses from Rikers Island in light of their advance age or medical conditions that place them at a higher risk from COVID-19.²¹

40. On March 26, 2020, Attorney General William Barr sent a memo to the Director of BOP “directing [him] to prioritize the use of [his] various statutory authorities to grant home confinement for inmates seeking transfer in connection with the COVID-19 pandemic.”²² The Attorney General specifically recognized that “there are some at-risk inmates who are non-violent and pose minimal likelihood of recidivism and who might be safer serving their sentences in home confinement rather than BOP facilities.”²³

41. On March 27, 2020, to stem the risk of COVID-19 infection, Governor Cuomo ordered the release from local jails of up to 1,100 people detained because of technical parole violations from local jails.²⁴

42. Similar efforts to depopulate jails and prisons have been underway around the country in response to the serious risk COVID-19 poses to incarcerated individuals, including by state and local governments in Alabama, Arizona, Arkansas, California, Colorado, Delaware, the

²¹ Jane Wester, *Legal Aid Wins Release of 51 More Persons Held at Rikers Island on Alleged Parole Violations*, LAW.COM (Apr. 13, 2020, 3:53 PM), <https://www.law.com/newyorklawjournal/2020/04/13/legal-aid-wins-release-of-51-more-persons-held-at-rikers-island-on-alleged-parole-violations/#>; Noah Higgins-Dunn, *Coronavirus: New York City to release 300 nonviolent inmates from Rikers Island*, CNB (Mar. 24, 2020, 5:35 PM), <https://www.cnbc.com/2020/03/24/coronavirus-new-york-city-to-release-300-nonviolent-inmates-from-rikers-island.html>.

²² Letter from the U.S. Att’y Gen. to the Dir. of the Bureau of Prisons (March 26, 2020), <https://www.justice.gov/file/1262731/download>.

²³ *Id.*

²⁴ Jane Wester & Ryan Tarinelli, *New York to Release Up to 1,100 People Jailed on Parole Violations, Officials Say*, LAW.COM (Mar. 27, 2020, 6:33 PM), <https://www.law.com/newyorklawjournal/2020/03/27/new-york-to-release-up-to-1100-people-jailed-on-parole-violations-officials-say/>; Denis Slattery, *New York to Release 1,100 Inmates Being Held on Parole Violations*, NEW YORK DAILY NEWS (Mar 27, 2020, 7:39 PM), <https://www.nydailynews.com/coronavirus/ny-coronavirus-new-york-inmates-released-parole-violations-20200327-jyrdhpxzdbbtvc6ei7fy7ebwq-story.html>.

District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.²⁵

43. In addition, courts around the country — including state and federal courts in New York — have ordered the release of incarcerated individuals.²⁶

The Sullivan County Jail — a Hotspot for COVID-19²⁷

44. Over the last two weeks, Sullivan County has had the highest rate of positive tests for COVID-19 and the most new cases per capita in New York State.²⁸ Among the county's community, farm laborers have contracted the virus the most, most likely because they live in dorm-like housing where they share dining areas and bathrooms.²⁹ As of May 29, 2020, out of a county population of approximately 75,000, over 1,300 people have contracted COVID-19 and 30 have died from the virus.³⁰

45. Compared to the county's overall infection rate, the Sullivan County Jail is a cesspool for the uncontrollable spread of the coronavirus. The first person incarcerated at the jail

²⁵ *Responses to the COVID-19 Pandemic*, PRISON POLICY INITIATIVE (last updated May 28, 2020), <https://www.prisonpolicy.org/virus/virusresponse.html>.

²⁶ See Petitioners' Mem. of Law in Support of Verified Petition for Writ of Habeas Corpus.

²⁷ The description of the conditions at the Sullivan County Jail are based on the affidavits of the petitioners and putative class members, which are annexed to this petition, unless a citation indicates otherwise.

²⁸ *10 Weeks Into New York Area's Lockdown, Who Is Still Getting Sick?*, The New York Times, available at <https://www.nytimes.com/2020/05/28/nyregion/ny-coronavirus-new-cases.html>

²⁹ See *id.*

³⁰ Sullivan County COVID-19 Dashboard, available at <https://www.arcgis.com/apps/opsdashboard/index.html#/edca67b6aaf14146840fcd6fc50706b6> (last accessed on May 29, 2020).

to test positive for COVID-19 did so on May 11.³¹ As of last week, 33 people have tested positive for the virus,³² accounting for nearly half of the 73-person jail population.³³

Positive Cases of COVID-19 as of May 27, 2020					
Locations:	Positive Cases	Total Population	Infection Rate	Infections/ 1,000 People	SC Jail Infection Rate is X Times Higher
Sullivan County Jail	33 ³⁴	73	45.21%	452	
Sullivan County	3,794	75,432	5.03%	50	9
New York State	369,801	19,440,469	1.90%	19	24
United States	1,745,803	331,002,651	0.53%	5	86
NYS DOCCS	498	44,284 ³⁵	1.12%	11	40
Rikers	348	3,992	8.72%	87	5

46. Correctional settings are generally susceptible to the rapid outbreak of infectious diseases. But there is no worse jail in the state, and possibly the country, for medically vulnerable people than the Sullivan County Jail. The infection rate among the incarcerated population is the worst reported rate for any jail in state. That COVID-19 is spreading through the incarcerated population at a record rate makes clear the life-threatening risk it poses for medically vulnerable detainees. Every time a detainee interacts with a correction officer, touches a frequently touched surface area, or simply breathes in the air in the poorly ventilated jail, they risk contracting the virus.

47. But the risks in the Sullivan County Jail are multiplied by the jail's deplorable condition and the respondents' failure to take reasonable measures to mitigate the risk for the

³¹ *Inmate at Sullivan County Jail Test Positive for COVID-19*, MIDHUDSON NEWS, available at <https://midhudsonnews.com/2020/05/18/inmates-at-sullivan-county-jail-test-positive-for-covid-19>

³² *See id.*

³³ *See* Sullivan County Jail Roster, attached as Ex. 1.

³⁴ As of 5/18, Mid-Hudson News reported 33 positive cases at the Jail. This number may have since increased. <https://midhudsonnews.com/2020/05/18/inmates-at-sullivan-county-jail-test-positive-for-covid-19>

³⁵ NYS DOCCS population as of January 1, 2020.

<https://doccs.ny.gov/system/files/documents/2020/01/january-monthly-report.pdf>

medically vulnerable population. The Sullivan County Jail hasn't been fit to serve as a jail for over a decade. Ten years ago, the head of the state watchdog group that monitors county jail conditions called the jail a "dungeon" and said the conditions are "completely unacceptable."³⁶ The jail has consistently failed to satisfy the state's minimum standards requirements.³⁷ As the oldest jail in the state, more than 110 years old, the jail conditions simply reflect its age.³⁸ There are holes in the ceiling and floors, and toilet water leaks through the ceiling into some people's cells. The jail's walls and ceilings are peppered with black mold, the bathrooms and showers are caked with rust and dirt, and the housing units turn into saunas in the summer because of the lack of proper ventilation. Even corrections officers sweat profusely during the summer months in the jail.³⁹ The Sheriff and other county officials have called the jail "deplorable" and "unsafe,"⁴⁰ yet it continues to house people in conditions not fit for any human being.

48. The conditions of the Sullivan County Jail facilitate the transmission of the coronavirus. Nearly a quarter of the jail's population is housed in a dorm in which beds are spaced just three feet apart from each other — well within the six feet required to observe proper social distancing. They all share the same bathrooms, showers, dining tables, recreation yard, and telephones. The two phones in the dorm are right next to each other, and they are both often in use at the same time. The commonly used areas are rarely cleaned. The first incarcerated person to

³⁶ *Inside the Sullivan County Jail*, THE CATSKILL CHRONICLE, available at <https://thecatskillchronicle.com/2010/01/28/inside-the-sullivan-county-jail/>

³⁷ *Inside the Sullivan County Jail*, THE CATSKILL CHRONICLE, available at <https://thecatskillchronicle.com/2010/01/28/inside-the-sullivan-county-jail/>

³⁸ *Sullivan's New Jail Decades In the Making*, RECORD ONLINE, available at <https://www.recordonline.com/news/20191017/sullivans-new-jail-decades-in-making>

³⁹ *See id.*

⁴⁰ *Id.*

contract COVID-19 was in this dorm, and subsequent testing of the dorm's population found that 17 out of 20 people tested also contracted the virus.⁴¹

49. Other housing units don't fare much better. The housing blocks with cells have open-air bar doors, the cells are closely bunched together, and people in neighboring cells share the same unventilated "stale" air that allows for the easy transmission of infected respiratory droplets from cell to cell. Everyone in a housing block with cells share the same common area, recreation area, and telephones. These commonly used areas are rarely cleaned. In the modular housing units, people who don't have COVID-19 are housed in cells a short distance away from the cells of people who do, allowing for conversations between the cells and the further spread of the virus. In an attempt to separate people who tested positive for COVID-19 from those who were negative, the Sheriff's Office has resorted to housing some people in areas of the jail that were no longer in use because they have long been condemned.

The Risks for the Medically Vulnerable at the Sullivan County Jail

50. Petitioners and other member of the putative class detained at the Sullivan County Jail face a substantial risk of serious illness or death from COVID-19 given their vulnerable conditions.

John Pace

51. Petitioner John Pace is 61 years old and diagnosed with chronic obstructive pulmonary disease ("COPD"), a progressive lung disease, and a heart condition caused by bundle blockage, which has required two stents in his heart. Mr. Pace uses two inhalers, one which he

⁴¹ *Inmate at Sullivan County Jail Test Positive for COVID-19*, MIDHUDSON NEWS, available at https://midhudsonnews.com/2020/05/18/inmates-at-sullivan-county-jail-test-positive-for-covid-19/?fbclid=IwAR0aapcTjVH_crj_F1KvCFhES7izPDrJx-bp0zi81VsDq96wksiGsU8xuWM

uses daily and another which is a rescue inhaler. Mr. Pace has not yet tested positive for COVID-19.

52. Mr. Pace's medical conditions are so severe that he has been on A Block in a "medical unit" ever since he was incarcerated last fall. However, no one has taken special precautions to protect Mr. Pace from serious illness or death in light of his medical vulnerabilities. He was given paper-thin facemasks to use for a prolonged period of time though the masks are meant to be disposable. There is no medical staff present overnight. He once witnessed an incident where someone in his 80s who was on blood thinners bled for three to four hours one night in a nearby cell, and in response the corrections staff did not provide any medical treatment and only gave him gauze.

53. Social distancing is virtually impossible for Mr. Pace. In his housing unit, the tier is less than six-feet wide outside the cells, which are open-faced with bars. Sometimes the jail staff in his housing unit takes their facemasks off despite being in close proximity to him. When Mr. Pace uses the telephone, he is directly next to the cell of another man, who would only be able to observe social distancing by standing inside the toilet in his cell.

54. His cellblock, like others, is covered in insects, mold, rust, and filth. The cleaning supplies he uses are shared with people in other units.

Earl Coleman

55. Petitioner Earl Coleman is 61 years old, and his advanced age places him at an elevated risk for serious illness or death from COVID-19. Mr. Coleman has not yet tested positive for COVID-19.

56. No one has taken any special precautions to protect Mr. Coleman from serious illness or death from COVID-19 given his vulnerability due to his age. In Mr. Coleman's housing

unit, C Block, multiple people tested positive before they were moved. He could hear these people cough and have trouble breathing. Even though one kitchen worker already had developed symptoms of COVID-19, another kitchen worker was moved to the C Block. This person eventually tested positive.

57. There is no way to social distance on the block, where tables are close to the cells and men on the block play cards at the table together. During the lock down, people still have to walk past his cell to shower, use the phone, or retrieve food. On Mr. Coleman's block, the men are not required to wear masks within the housing unit.

58. The correctional officers who work on C Block also work in other parts of the jail. The jail staff generally are not getting tested, despite having outside contact and working in multiple parts of the jail, including both "clean" blocks and "dirty" blocks.

59. No one confined to Mr. Coleman's housing unit, C Block, is assigned to clean or disinfect the unit, and no jail staff otherwise regularly clean or disinfect the unit. High-touch surfaces, including showers and phones are cleaned only when people confined to the unit choose to clean them. The last time the shower was cleaned was when Mr. Coleman cleaned it several weeks ago. Cleaning products are only provided to detainees on specific request and, even then, only significantly watered-down bleach, soap, and a rag are provided. The unit is so decrepit that a bag held up with combs keeps water from leaking in front of the TV from the ceiling.

Toni Dilauro

60. Petitioner Toni Dilauro has severe asthma, which places her at an elevated risk of serious illness or death from COVID-19. She is prescribed an albuterol inhaler for her asthma. Ms. Dilauro tested positive for COVID-19 on or about May 16, 2020.

61. Periodically, Ms. Dilauro suffers asthmatic episodes so severe that she requires outside medical intervention using a high-powered albuterol machine. This type of medical intervention is not rare for Ms. Dilauro — she requires the same intensive breathing treatments on roughly an annual basis. After her most recent episode, which occurred approximately six months ago, Ms. Dilauro required intensive breathing treatments every day for a month. No one has taken any special precautions to protect Ms. Dilauro from serious illness or death from COVID-19 given her vulnerability.

62. On at least one occasion since she was incarcerated at the Sullivan County Jail, Ms. Dilauro's pulse measured 118 beats per minute. The nurse treating Ms. Dilauro accused Ms. Dilauro of having made her blood pressure spike on purpose. He repeated this accusation on his next round, when her pulse was still high. He did not do anything else to examine her or treat her.

63. Ms. Dilauro first began experiencing symptoms of COVID-19 in early May, was not tested until May 14, and did not receive her test results until May 16. Her symptoms include a severe cough, a loss of appetite, vomiting, fever, a high heart rate, a headache, and body aches. She continues to experience symptoms including a severe and bloody cough.

64. On at least two occasions since she was incarcerated at the Sullivan County Jail, Ms. Dilauro was denied emergency medical attention when she coughed up blood. The first time, instead of immediately sending Ms. Dilauro to the medical unit, the correctional officers told her she needed to write a sick call slip and hand-deliver it to the nurses during their regular rounds in the evening. The nurse then failed to perform an examination of Ms. Dilauro, who later only received a small cup of cough syrup. The second time, the nurse suggested that the blood could have come from a blood vessel that had burst, and said, "Welcome to the COVID" without giving Ms. Dilauro medication or conducting an examination.

65. On another occasion Ms. Dilauro had to file a grievance against a nurse who refused to check her temperature and claimed that temperature checks could not be performed in the evening.

66. On at least one occasion since her incarceration at the Sullivan County Jail and after she received her positive test result, Ms. Dilauro reported to a corrections officer in the middle of the night that she was experiencing difficulty breathing. In response, the corrections officer ignored Ms. Dilauro's symptoms, telling her that the nursing staff had left for the evening, and there was nothing the jail could do to help her.

Joshua Whidbee

67. Petitioner Joshua Whidbee is diagnosed with hypertension, which places him at an elevated risk for serious illness or death from COVID-19. He also has one weak kidney and a family history of kidney problems. Mr. Whidbee tested positive for COVID-19 on or around May 16, 2020.

68. Mr. Whidbee is prescribed daily Lisinopril and Hydrochlorothiazide to control his blood pressure. His blood pressure is supposed to be checked bi-weekly, but the jail's medical staff has stopped checking his blood pressure ever since the jail-imposed quarantine measures. No one has taken any special precautions to protect him from serious illness or death from COVID-19 given his medical vulnerabilities.

69. On or around May 9, 2020, Mr. Whidbee's lips began to swell and he felt as if his throat was closing up. He requested medical attention and was given Benadryl for the swelling, and told that it was probably a result of his blood pressure medication. He was sent away and told he should request more Benadryl if the swelling continued.

70. The next day, he began to experience more symptoms of COVID-19, including dizziness, loss of appetite, chronic fatigue, extremely swollen lips, difficulty falling and staying asleep, tightness in his throat, constant migraine headaches, difficulty thinking and focusing, a “barking” cough, muscle aches and back pain, and tightness in his chest particularly when speaking. He once again requested medical attention. Jail staff provided him more Benadryl, and said they were going to switch his blood pressure medication. Even now, he still feels dizzy.

71. Mr. Whidbee was first tested for the coronavirus on May 14, 2020 and received his results on or about May 16. After his positive result, Mr. Whidbee was moved along with five others from the C-Block dorm where he was located, into the E-Block single-cell unit for “quarantine.”

72. On at least one occasion, Mr. Whidbee had a severe migraine headache at night, when there is no medical staff at the jail. He was not given any medication as the correction officers said they were not allowed to administer medicine without the medical staff.

73. Mr. Whidbee is currently housed in a cramped cell in a unit where social distancing is impossible. His housing unit is filthy and coated in black mold, which Mr. Whidbee breathes in daily. He along with others have requested cleaning supplies, but they told that they were using too much bleach and were subsequently given significantly diluted bleach.

Respondents Knew of and Disregarded the Substantial Risk of Serious Harm for Medically Vulnerable People Because They Failed to Take Reasonable Measures to Mitigate It

74. Respondents are well aware of the obvious risk to petitioners and other medically vulnerable members of the putative class. Respondents also are aware of the risk because they

have received correspondence alerting them to that risk.⁴² But they have not taken any actions specific to those medically vulnerable detainees who remain in their custody at the Sullivan County Jail to protect them from the grave risk that COVID-19 poses to their health.

75. In stark contrast to efforts at correctional institutions nationwide, respondents have failed to take reasonable measures specific to the medically vulnerable population at the Sullivan County Jail to protect them from serious harm. Instead, respondents have confined petitioners and the medically vulnerable class in an environment that exposes them to life-threatening conditions.

76. Since the pandemic began, the Sheriff's Office has taken precautions for the general jail population that—given the staggering infection rate in the jail—have been woefully inadequate. The Sheriffs' Office initially handed out masks to the incarcerated population and to its staff in April, but it didn't make the wearing of masks mandatory. Corrections staff didn't wear their masks even when supervising new admissions to the jail under a mandatory quarantine period because they may have COVID-19. Nor did they wear them when interacting with medically vulnerable people.

77. Even after two of its staff contracted COVID-19 in early April,⁴³ the Sheriff's Office made no effort to enforce the wearing of masks. And it made no effort to enforce social distancing in the jail. Incarcerated people cannot maintain the CDC-recommended six-foot distance between themselves and others due to the cramped quarters and close proximity in which

⁴² Ex. 2, Letter from the NYCLU to Gov. Cuomo re Urgent Action Necessary to Address the COVID-19 Pandemic in New York's Jails and Prisons (forwarded to the Counsel for DOCCS via email on March 27, 2020); Ex. 3, Letter from NYCLU to Sheriff Schiff and DA Galligan re COVID-19 at the Sullivan County Jail; Ex. 4, Memoranda from the State Commission of Correction to the Sheriffs re Coronavirus.

⁴³ *Sullivan County Jail Inmate Has COVID-19*, TIMES HERALD-RECORD, available at <https://www.recordonline.com/news/20200513/sullivan-county-jail-inmate-has-covid-19>

detainees are housed. The complete lack of effort on the part of the Sheriff's Office to enforce such distancing demonstrates the futility of doing so.

78. Rather than limit entry into the "quarantine" unit that at the time housed newly admitted detainees, the Sheriff's Office tasked detained individuals not staying in the unit with cleaning it — exposing them to individuals who may have COVID-19. One individual, Robert Lloyd Dunn Jr., who protested having to enter a quarantine unit to clean it was threatened by a correctional officer with discipline if he didn't enter and clean the unit. Mr. Dunn begrudgingly cleaned it, and he later tested positive for COVID-19.⁴⁴

79. Even after discovering the COVID-19 outbreak in mid May, the Sheriff's Office still refuses to make hand sanitizer available to those incarcerated. While the Sheriff's Office has placed the jail on lockdown, jail staff continue to move in heavy rotation throughout the units. Jail staff have placed signs that say "Clean" on the doors to some housing blocks, indicating that no one housed in that block has tested positive for COVID-19. For blocks housing people who have tested positive, jail staff place signs that say "Dirty." Jail staff frequently circulate between so-called "clean" and "dirty" blocks, rather than having one set of corrections staff work in each block to minimize the risk of transmission.

80. Since the outbreak, disinfection of the facility occurs infrequently if at all. High-touch surfaces used by detainees, such as door handles, tables, and telephone receivers, are not disinfected unless a detainee volunteers to do so. In "E-block," one of the housing units where detainees infected with COVID-19 are confined, no detainees are assigned to cleaning duty, meaning that there is *no* procedure in place for any cleaning in that housing unit.

⁴⁴ Mr. Dunn, a putative class member, submitted an affidavit in support of this petition.

81. Jail staff also engage in careless actions that elevate the risk that COVID-19 will spread. On or around May 23, 2020, jail staff took a book from petitioner Dilauro, who had tested positive for COVID-19, and, on information and belief, immediately gave it to another detained individual who does not have COVID-19 without taking any steps to disinfect the book.⁴⁵

82. While DOCCS has released some parolees from jail, it has not taken any action to protect the parolees who remain behind in the Sullivan County Jail, evidencing its own disregard to the substantial risk to the medically vulnerable parolees at the jail. *See Barbecho v. Decker*, No. 20-CV-2821 (AJN), 2020 WL 1876328, at *4-5 (S.D.N.Y. Apr. 15, 2020) (finding that ICE disregarded the serious medical needs of detainees it assessed for release and “determined should remain in ICE custody” because it failed to offer any evidence of measures designed to address the needs of those high-risk detainees”) (emphasis in original).

83. The Sheriff’s Office has proven itself incapable of preventing the spread of the COVID-19 to uninfected individuals. That the Sheriff’s Office has taken *no* measures specific to medically vulnerable people to protect them from contracting the virus evidences its disregard to the substantial risk to their health. *See id.* (The “increased precautions generally taken at [a] Jail do nothing to alleviate the *specific, serious, and unmet* medical needs of the high-risk detainees, who require greater precautions in light of their correspondingly greater risk of *severe* illness if they contract COVID-19.”)

⁴⁵ *See* Affidavit of Toni Dilauro.

84. “These deficiencies,” according to petitioners’ expert Dr. Homer Venters,⁴⁶ “indicate that the jail is not only failing to take adequate measures to slow the spread of COVID-19, but furthermore that the jail is creating an environment where COVID-19 can flourish.”⁴⁷

85. Nor has the Sheriff’s Office shown itself to be equipped to manage the care of the medically vulnerable individuals who have tested positive for COVID-19. The physical recovery period from COVID-19 can extend well beyond the active infection period, taking six weeks or longer.⁴⁸ And there is a risk of serious complications in the weeks of recovery because of how COVID-19 can damage a person’s “heart, kidney, and lung function and cause blood clots.”⁴⁹

86. During the active infection and recovery period, people detained at the Sullivan County Jail who contract COVID-19 are at higher risk of developing acute, life-threatening symptoms than if they were in the community, because the jail lacks or otherwise has failed to devote the medical resources necessary to care for symptomatic individuals.

87. For emergent medical needs, detainees are expected to fill out a sick call slip, which is picked up during the twice-daily rounds. If the sick call is approved by the medical staff, the sick caller is supposed to receive a visit from medical within 24 to 48 hours. Sick call requests related to known COVID-19 signs or symptoms are routinely ignored by jail staff. As a matter of course, sick call requests can only be transmitted to medical staff via corrections officers, who sometimes fail or refuse to relay such requests.⁵⁰

⁴⁶ Dr. Venters is an epidemiologist and the former Chief Medical Officer in charge of health care for New York City’s twelve jails.

⁴⁷ Affidavit of Dr. Homer Venters (Venters Aff.), annexed to this petition.

⁴⁸ *Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19)*, WORLD HEALTH ORG. (Feb. 16–24, 2020), <https://www.who.int/docs/default-source/coronaviruse/who-china-joint-mission-on-covid-19-final-report.pdf>; Amanda D’Ambrosio, *COVID-19 Sequelae Can Linger for Weeks*, MEDPAGE TODAY, (May 13, 2020),

⁴⁹ Venters Aff. ¶ 10.

⁵⁰ See, e.g., Affidavit of Toni Dilauro.

88. Even when detainees report COVID-19 symptoms directly to medical staff, health staff routinely fail to conduct medical assessments. This is true even with respect to detainees at a high risk for serious medical complications if infected by COVID-19.⁵¹

89. Moreover, *no* medical staff are present at the jail between the hours of approximately 10pm and 8am. The absence of any onsite medical care overnight “creates significant risk for both detainees ill with COVID-19 and those with other medical emergencies.”⁵² People requiring acute care during the overnight period cannot receive it from staff at the facility, and outside emergency services must be summoned. For example, petitioner Dilauro, who tested positive for COVID-19, recently had an asthma attack overnight and was ignored by corrections staff. When someone in a neighboring cell screamed for help, the corrections officer replied that nothing can be done because the nurses had left for the night. The corrections officer later said she would try to reach her supervisor, but no one ever followed up that night. Luckily for Ms. Dilauro, she was able to recover after multiple uses of her inhaler.

90. Given the uncontrollable spread of the virus and the inadequate medical services at the jail, its no surprise that Dr. Venters has concluded “high-risk detainees face a serious risk of life-threatening medical complications or death from COVID-19 for as long as they remain detained at the Sullivan County Jail.”⁵³

CLASS ACTION ALLEGATIONS

⁵¹ *See, e.g.*, Affidavits of Toni Dilauro, Joshua Whidbee, and John Pace.

⁵² Venters Aff. ¶ 26.

⁵³ Venters Aff. ¶ 44.

91. Petitioners bring this habeas petition as a class action pursuant to Article 9 of the New York Civil Practice Law & Rules (“CPLR”). *See, e.g., People ex rel. Kaufmann v. Goldman*, 86 Misc. 2d 776, 777–78 (Sup. Ct., New York Cty. 1976) (permitting the renewal of the petitioner’s application for class status in a habeas proceeding challenging the unlawful detention of teenagers in state-operated drug treatment centers).

92. Petitioners seek to represent themselves and a class of similarly situated individuals, referred to herein as the “medically vulnerable class.” The medically vulnerable class consists of: all people who are or will be detained at the Sullivan County Jail during the COVID-19 pandemic and who are at least 50 years of age or have any condition that has been identified by the Centers for Disease Control and Prevention or the New York State Department of Health as posing an elevated risk for severe illness from COVID-19.

93. All five requirements of CPLR Section 901(a) :

- a. *Numerosity*: Joinder of all class members is impracticable because of the size of the class and contextual factors. *See Borden v. 400 E. 55th St. Assocs., L.P.*, 24 N.Y.3d 382, 399 (2014). At least 73 potential class members are detained at the Sullivan County Jail at the time of filing. The jail’s current lockdown will eventually end and make way for the number of potential class members to grow during the COVID-19 pandemic because additional people are likely to enter respondents’ custody at the Sullivan County Jail.
- b. *Commonality*: The common question of law and fact to be resolved here is: whether respondents have acted with deliberate indifference to the serious medical needs of the proposed class in violation of the cruel and unusual

punishment clauses and Due Process clauses of the U.S. and New York Constitutions.

- c. *Typicality*: The claims of the petitioners are typical of the class. The deliberate indifference claim of the petitioners is the same as the class members because it arises from the same government practice.
- d. *Adequacy of Representation*: Petitioners will protect the interests of the class fairly and adequately. Petitioners face a substantial risk of serious harm from respondents' conduct and have a strong interest in vigorously pursuing relief on behalf of the class. Their interests are not antagonistic to those of other class members. Putative class counsel have many years of combined experience in complex civil litigation, civil rights, and class action litigation.
- e. *Superiority*: A class action is superior to other available methods for the fair and efficient adjudication of this controversy, and will prevent the imposition of undue financial, administrative, and procedural burdens on the parties and the Court, which individual litigation on these claims would impose. Counsel anticipates no difficulty in the management of this petition as a class action.

JURISDICTION AND VENUE

94. This Court has jurisdiction over this petition pursuant to CPLR Section 7010(a). Habeas corpus is proper to remedy an illegal detention resulting from deliberate indifference to the serious medical needs of incarcerated persons. *See People ex rel. Hall v. LeFevre*, 60 N.Y.2d 579, 580–81 (1983) (acknowledging release via habeas corpus as an appropriate remedy for unconstitutional conditions of confinement)

95. Petitioners have not been committed and are not detained by virtue of any judgment, decree, final order, or process of mandate issued by a court or judge of the United States in a case where such court or judge has exclusive jurisdiction to order petitioners released.

96. Petitioners held on parole warrants may be released by Respondent Annucci without prejudice to later refilling of parole violation charges after the threat of COVID-19 has abated, pursuant to 9 NYCRR Section 80004.3(e)(i).

97. Petitioners have made no prior application for the relief requested herein.

98. Venue is proper in this Court pursuant to CPLR Section 7002(b)(1).

99. Copies of the mandates pertaining to the named petitioners are not attached hereto due to the emergency nature of this proceeding.

CLAIMS

The detention of petitioners and the medically vulnerable class is illegal for the following reason:

100. Respondents have acted with deliberate indifference to the serious medical needs of petitioners and the medically vulnerable class in violation of their rights under the Eighth Amendment and the Fourteenth Amendment to the United States Constitution and Articles 1, Sections 5 and 6 of the New York Constitution.⁵⁴

REQUEST FOR RELIEF

WHEREFORE, petitioners respectfully request that this Court:

- a. Certify this habeas proceeding as a class action;
- b. Appoint petitioners' counsel as counsel for the class;

⁵⁴ Incorporated by reference herein is petitioners' memorandum of law in support of this petition, which set forth the legal arguments in support of their claim.

- c. Order that the named petitioners be paroled pursuant to CPLR Section 7009(e) pending the final disposition of this proceeding;
- d. Issue a writ of habeas corpus and order that respondents immediately release the named petitioners and the members of the medically vulnerable class, imposing public health and safety measures as appropriate; and
- e. Grant such other relief as the Court may deem just and proper.

Dated: May 29, 2020
New York, New York

Respectfully submitted,



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On the brief: Joel Simwinga

*Counsel for Petitioners and the Putative
Class*

EXHIBIT LIST

The following exhibits are true copies of the documents indicated. They are incorporated by reference into this petition.

- Exhibit 1 Sullivan County Jail Roster
- Exhibit 2 Letter from the NYCLU to Gov. Cuomo re Urgent Action Necessary to Address the COVID-19 Pandemic in New York's Jails and Prisons
- Exhibit 3 Letter from NYCLU to Sheriff Schiff and DA Galligan re COVID-19 at the Sullivan County Jail
- Exhibit 4 Memoranda from the State Commission of Correction to County Sheriffs re Coronavirus

VERIFICATION

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss

Philip Desgranges, an attorney admitted to the practice of law in the State of New York, affirms under the penalties of perjury:

1. I am an attorney at the New York Civil Liberties Union and am the relator in this habeas corpus proceeding. I am an attorney for the petitioners and am authorized to file this petition for a writ of habeas corpus on their behalf.
2. I have read the foregoing petition and know its contents.
3. The statements in the petition are true to my knowledge, except as to any statements alleged on information and belief, and as to those statements, I believe them to be true.



Philip Desgranges

Dated: May 29, 2020
New York, NY